

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 EB-07 CIAE-00 PM-04 INR-07 L-03 ACDA-10

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P 141635Z APR 76

FM USMISSION NATO

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USCINCEUR

UNCLAS USNATO 2038

E.O. 11652: N/A

TAGS: MARR, NATO

SUBJ: ADVICE TO NICS/IVSN CONTRACT BIDDERS RESPONDING TO NICSMA
REQUEST FOR EXTENSION OF PRICE VALIDITY DATES

REF: USNATO 1838, 031510Z APR 76

SUMMARY. THIS MESSAGE PROVIDES A BASIS FOR USDOC TO ADVISE
US BIDDERS ON NICS INTERIM VOICE SWITCHING NETWORK (IVSN)
CONTRACT: (1) ON THE BASIS FOR NICSMA'S INTENDED COMPARISON
OF BID PRICES, AND (2) ON THEIR RESPONSES TO NICSMA'S REQUEST
FOR EXTENSION OF THEIR PRICE BID AND BID GUARANTEE VALIDITY
DATES. MESSAGE EMPHASIZES THAT ANY CLARIFICATION OF NICSMA'S
REQUEST WILL BE GIVEN ONLY UPON DIRECT REQUEST BY BIDDER,
AND THAT DEADLINES FOR REPLIES TO NICSMA LETTER OF 6 APR 76
REMAIN FIRM. ACTION REQUESTED: USDOC INFORM GTE SYLVANIA
AND NORTH ELECTRIC OF CONTENTS OF THIS MESSAGE. END SUMMARY.

1. THE DISPUTE BETWEEN THE FRG AND NICSMA ON THE GERMAN
BIDDER'S (DIEMENS) NON-CONFORMITY WITH NICS/IVSN SPECIFI-
CATIONS CONTINES, AND HAS BEEN REFERRED TO A GROUP OF IN-
DEPENDENT ADVISORS TO PROVIDE NON-BINDING ADVICE TO THE DPC
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FOR FURTHER DELIBERATION. BECAUSE OF EXPECTED DELAYS, INCSMA,
BY LETTER DATED 6 APR 76, HAS ASKED ALL BIDDERS TO AGREE TO
NOON BRUSSELS TIME 20 APR 76 TO EXTEND BY 150 DAYS THE
VALIDITY DATES OF THEIR (UNOPENED) PRICE BIDS AND BID

GUARANTEES, I.E., TO 17 SEPT 76, WITH AN OPTION FOR A FURTHER EXTENSION OF 30 MORE DAYS SHOULD THE NEED ARISE.

2. THE LAST THREE PARAGRAPHS OF THE NICSMA LETTERS OF 6 APR 76 TO BOTH US BIDDERS (GTE SYLVANIA AND NORTH ELECTRIC COMPANY), WHICH COULD RAISE QUESTIONS TO USDOC, ARE QUOTED AS FOLLOWS: QUOTE THIS BID EXTENSION SHOULD BE GIVEN IN THE UNDERSTANDING THAT NICSMA MAY AGREE, UPON APPROVAL OF THE NATO INFRASTRUCTURE P&P COMMITTEE, TO PAY TO THE SUCCESSFUL BIDDER ADDITIONAL COSTS TO THE BID PRICE JUSTIFIED BY THE USE OF GOVERNMENT RECOGNIZED INDICES AND/OR PROCEDURES AND LIABLE TO SUBSEQUENT AUDIT BY THE NATIONAL AUTHORITIES TO THE SATISFACTION OF NICSMA. REIMBURSEMENT OF THESE ADDITIONAL COSTS MAY ALSO BE LIMITED UP TO A TOTAL OF A PERCENTAGE TO BE APPROVED BY THE NATO INFRASTRUCTURE P&P COMMITTEE.

PLEASE INDICATE BY 7 MAY THE INCREASE, IF ANY, TO YOUR BASIC BID PRICE UNDER THE ABOVE CONDITIONS.

THIS LETTER IS IN CONFIRMATION OF NICSMA TELEX NO. 1563 TRANSMITTED TO YOU ON 2 APR 76 UNQUOTE.

3. WE DISCUSSED THE ABOVE WITH NICSMA, INFORMALLY, TO ASCERTAIN THEIR INTENTIONS. NICSMA CONFIRMED THAT, IN ACCORDANCE WITH PAST PRACTICE, ONLY THE PRICE BIDS FROM BIDDERS ULTIMATELY FOUND TO BE TECHNICALLY COMPLIANT (AS TWO US FIRMS NOW ARE) WILL BE OPENED FOLLOWING RESOLUTION OF THE DISPUTE. THE WINNER WILL BE DETERMINED ON THE BASIS OF THE LOWEST INITIAL PRICE BY A COMPLIANT BIDDER. PRICE ESCALATIONS WOULD BE A SEPARATE MATTER.

4. IN THE FIRST OF THE PARAGRAPHS QUOTED ABOVE, NICSMA WAS ANTICIPATING THAT, SHOULD THERE BE INDICATIONS OF PRICE ESCALATIONS BY ANY OF THE BIDDERS, THE RECENT ACTIONS TAKEN BY THE NATO INFRASTRUCTURE P&P COMMITTEE IN THE CASE OF THE NICS/TARE CONTRACT WITH LITTON WOULD LIKELY BEAR ON ANY NEGOTIATIONS BETWEEN NICSMA AND THE CONTRACTING FIRM. NICSMA SAID THIS PARAGRAPH WOULD HAVE A BEARING EVENTUALLY ONLY ON THE WINNING CONTRACTOR.

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5. IN THE SECOND QUOTED PARAGRAPH ABOVE, NICSMA WAS ANTICIPATING THAT, IF A BIDDER FACED A PRICE ESCALATION PROBLEM, HE MIGHT ELECT TO ESTIMATE A PERCENTAGE RANGE OR CEILING WITHIN WHICH SUCH ESCALATION MIGHT FALL, SUBJECT TO JUSTIFICATION, AS LITTON DID IN THE CASE OF THE NICS/TARE. ON THE OTHER HAND, IF THE BIDDER ELECTED TO STATE A FLAT INCREASE, THIS TOO WOULD FACE JUSTIFICATION. IN ADDITION, A WINNING PRICE BID GREATER THAN THE AMOUNT ALREADY COVERED BY THE P&P COMMITTEE AUTHORIZATION WOULD REQUIRE A FURTHER UNANIMOUS P&P APPROVAL.

6. WE HAVE HAD ONE TELEPHONE QUERY ON THE NICSMA LETTER BY MR. MARR OF GTE SYLVANIA, INC., WALTHAM, MASS., BUT NICSMA

INFORMED US THAT THEY CAN CONSIDER A REQUEST FOR CLARIFICATION ONLY DIRECTELY FROM THE CONTRACTOR TO NICSMA. THEREFORE, WE RECOMMEND THAT ANY CONTACT CONSIDERED NECESSARY BY EITHER CONTRACTOR BE MADE QUICKLY BECAUSE THE DEADLINES IN THE NICSMA LETTER OF 6 APRIL 76 REMAIN FIRM. STRAUZ-HUPE

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